

(b) For fixed price construction project agreements with unit price components, all funds remaining that are associated with overestimated unit price quantities are savings and may be used by the Self-Governance Tribe in accordance with section 137.342. All other funds remaining at the conclusion of the project are considered profit and belong to the Self-Governance Tribe.

(c) At the option of the Self-Governance Tribe, funds otherwise identified in paragraphs (a) and (b) as “profit” may be reclassified, in whole or in part, as savings and to that extent may be used by the Self-Governance Tribe in accordance with section 137.142.

§ 137.344 May a Self-Governance Tribe reallocate funds among construction project agreements?

Yes, a Self-Governance Tribe may reallocate funds among construction project agreements to the extent not prohibited by applicable appropriation law(s).

ROLES OF SELF-GOVERNANCE TRIBE IN ESTABLISHING AND IMPLEMENTING CONSTRUCTION PROJECT AGREEMENTS

§ 137.350 Is a Self-Governance Tribe responsible for completing a construction project in accordance with the negotiated construction project agreement?

Yes, a Self-Governance Tribe assumes responsibility for completing a construction project, including day-to-day on-site management and administration of the project, in accordance with the negotiated construction project agreement. However, Self-Governance Tribes are not required to perform beyond the amount of funds provided. For example, a Self-Governance Tribe may encounter unforeseen circumstances during the term of a construction project agreement. If this occurs, options available to the Self-Governance Tribe include, but are not limited to:

- (a) Reallocating existing funding;
- (b) Reducing/revising the scope of work that does not require an amendment because it does not result in a significant change;
- (c) Utilizing savings from other projects;

(d) Requesting additional funds or appropriations;

(e) Utilizing interest earnings;

(f) Seeking funds from other sources; and/or

(g) Redesigning or re-scoping that does result in a significant change by amendment as provided in §§ 137.363 and 137.364.

§ 137.351 Is a Self-Governance Tribe required to submit construction project progress and financial reports for construction project agreements?

Yes, a Self-Governance Tribe must provide the Secretary with construction project progress and financial reports semiannually or, at the option of the Self-Governance Tribe, on a more frequent basis. Self-Governance Tribes are only required to submit the reports, as negotiated in the Construction Project Agreement, after funds have been transferred to the Self-Governance Tribe for a construction project. Construction project progress reports and financial reports are only required for active construction projects.

§ 137.352 What is contained in a construction project progress report?

Construction project progress reports contain information about accomplishments during the reporting period and issues and concerns of the Self-Governance Tribe, if any.

§ 137.353 What is contained in a construction project financial report?

Construction project financial reports contain information regarding the amount of funds expended during the reporting period, and financial concerns of the Self-Governance Tribe, if any.

ROLES OF THE SECRETARY IN ESTABLISHING AND IMPLEMENTING CONSTRUCTION PROJECT AGREEMENTS

§ 137.360 Does the Secretary approve project planning and design documents prepared by the Self-Governance Tribe?

The Secretary shall have at least one opportunity to approve project planning and design documents prepared by the Self-Governance Tribe in advance